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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/883,443 | 06/18/2001 | Reinhold Elferich | DE000089 | 2799 |
| 24737 | 7590 | 10/18/2007 | EXAMINER | |
| PHILIPS INTELLECTUAL PROPERTY & STANDARDS | | | BARRERA, RAMON M | |
| P.O. BOX 3001 | | | ART UNIT | PAPER NUMBER |
| BRIARCLIFF MANOR, NY 10510 | | | 2832 | |
| MAIL DATE | | DELIVERY MODE | | |
| 10/18/2007 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/883,443 | ELFERICH ET AL. | |
| | Examiner | Art Unit | |
| | Ramon M. Barrera | 2832 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 July 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2,5-16,18-25,27 and 28 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1,2,5-16 and 18-21 is/are allowed.
- 6) Claim(s) 22-24 and 27 is/are rejected.
- 7) Claim(s) 25 and 28 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 - Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
 - Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 22-24 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by York, et al..

York discloses a control element having a rotary knob (wall of 58, 58a) connected to a rotor 14a via a shaft 32a, having a magnetic circuit (18,18a) and having at least one coil (38, 38a), support means(42,42a) normal to said rotary knob, wherein the rotary knob is supported so as to be rotatable with respect to at least a stationary part of the magnetic circuit, a sealed gap 28 between the rotary knob and the stationary part of the magnetic circuit is filled with a magnetorheologic fluid, and the coil is configured (intended use) to exert a variable braking action on the rotary knob (col. 10, lines 25-30). It has been held that the recitation that an element is “configured to” perform or is “adapted to” perform a function is not a positive limitation but only requires the ability to so perform.

Allowable Subject Matter

3. Claims 25 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramon M. Barrera whose telephone number is (571) 272-1987. The examiner can normally be reached on Monday through Friday from 11 to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin G. Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2832

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ramon M Barrera

Ramon M Barrera
Primary Examiner
Art Unit 2832

rmr